

UTILITIES DIVISION[199]

Notice of Intended Action

Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)"b."

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to Iowa Code sections 17A.4, 476.1, 476.2, and 476.8, the Utilities Board (Board) gives notice that on November 21, 2008, the Board issued an order in Docket No. RMU-08-8, In re: Amendments to Extension Rules for Natural Gas and Electric Plant Additions, Gas Distribution Main Extensions, and Electric Line Extensions [199 IAC 19.3(10) and 20.3(13)], "Order Commencing Rule Making," which proposes revisions to the Board's gas and electric extension rules. Specifically, the Board proposes to revise the definition for an "advance for construction" and to eliminate the option for customers to choose either a refundable advance for construction or nonrefundable contribution in aid of construction when required to pay for natural gas or electric plant additions, natural gas distribution main extensions, or electric line extensions.

Under current rules, the calculation for a refundable "advance for construction" found in 199 IAC 19.3(1)"a" and 20.3(13)"a" includes a gross-up for the income tax effect of the customer's payment but does not include a calculation of the present value of the tax benefits to be obtained by depreciating the property in determining the tax liability. The calculation for a "contribution in aid of construction" includes the present value adjustment.

The Board proposes to amend the calculation of an "advance for construction" to include the present value calculation to make it the same as the calculation for a nonrefundable contribution in aid of construction. The amendments, if adopted, will reduce the amount a customer has to pay for an advance for construction under the Board's rules. The proposed amendments do not change the requirements for refunds to customers that pay an advance where appropriate under the Board's rules. The end result of the amendments will be that the tax effect for both advances for construction and contributions in aid of construction will be the same, so there will be no choice for the customer to make between a refundable advance and a nonrefundable contribution. Consistent with the definition change, the Board is proposing to amend its rules to remove the customer choice so that the customer will pay the lower calculated amount and still be eligible for refunds where applicable under the rules.

The Board has granted waivers of the extension rules to MidAmerican Energy Company (MidAmerican), Docket No. WRU-08-31-156, and Interstate Power and Light Company (IPL), Docket No. WRU-08-35-150, to make the same change to the definition of an advance for construction and to remove the customer's payment option as reflected in the proposed amendments. Since the waivers to MidAmerican and IPL significantly reduce the number of customers affected by the current rule, the Board considers it reasonable to amend the rules for all customers to be consistent with the waivers. This will also avoid any confusion where the service between utilities overlaps.

The specific provisions where the amendments are being proposed are: 199 IAC 19.3(10)"a," 19.3(10)"b," 19.3(10)"c," 20.3(13)"a," 20.3(13)"b," and 20.3(13)"c"(2). The order commencing the rule making can be found on the Board's Web site, www.state.ia.us/iub.

Pursuant to Iowa Code section 17A.4(1)"a" and "b," any interested person may file a written statement of position pertaining to the proposed amendments. The statement must be filed on or before January 6, 2009, by filing an original and ten copies in a form substantially complying with 199 IAC 2.2(2). All written statements should clearly state the author's name and address and should make specific reference to this docket. All communications should be directed to the Executive Secretary, Iowa Utilities Board, 350 Maple Street, Des Moines, Iowa 50319-0069.

No oral presentation is scheduled at this time. Pursuant to Iowa Code section 17A.4(1)“b,” an oral presentation may be requested, or the Board on its own motion after reviewing the statements may determine that an oral presentation should be scheduled.

These amendments are intended to implement Iowa Code sections 17A.4, 476.1, 476.2, and 476.8.

The following amendments are proposed.

ITEM 1. Amend paragraph **19.3(10)“a,”** definition of “Advance for construction,” as follows:

“*Advance for construction,*” as used in this subrule, means cash payments or equivalent surety made to the utility by an applicant for a plant addition or a distribution main extension, portions of which may be refunded depending on any subsequent service line attached to the plant addition or distribution main extension. Cash payments or equivalent surety shall include a grossed-up amount for the income tax effect of such revenue. The amount of tax shall be reduced by the present value of the tax benefits to be obtained by depreciating the property in determining the tax liability.

ITEM 2. Amend paragraph **19.3(10)“b”** as follows:

b. Plant additions. The utility shall provide all gas plant at its cost and expense without requiring an advance for construction ~~or a nonrefundable contribution in aid of construction~~ from customers or developers except in those unusual circumstances where extensive plant additions are required before the customer can be served. A written contract between the utility and the customer which requires an advance for construction ~~or a nonrefundable contribution in aid of construction~~ by the customer to make plant additions shall be available for board inspection. ~~The utility shall allow the customer or developer, at the customer’s or developer’s option, to provide a nonrefundable contribution in aid of construction instead of a refundable advance for construction.~~

ITEM 3. Amend paragraph **19.3(10)“c”** as follows:

c. Distribution main extensions. Where the customer will attach to the distribution main extension within the agreed-upon attachment period after completion of the distribution main extension, the following shall apply:

(1) The utility shall finance and make the distribution main extension for a customer without requiring an advance for construction ~~or a nonrefundable contribution in aid of construction~~ if the estimated construction costs to provide a distribution main extension are less than or equal to three times estimated base revenue calculated on the basis of similarly situated customers. The utility may use a feasibility model, rather than three times estimated base revenue calculation, to determine what, if any, advance for construction ~~or nonrefundable contribution in aid of construction~~ is required of the customer. The utility shall file a summary explaining the inputs into the feasibility model and a description of the model as part of the utility’s tariff. Whether or not the construction of the distribution main extension would otherwise require a payment from a customer, the utility shall charge the customer for actual permit fees, and the permit fees are not refundable.

(2) If the estimated construction cost to provide a distribution main extension is greater than three times estimated base revenue calculated on the basis of similarly situated customers, the applicant for a distribution main extension shall contract with the utility and make, no more than 30 days prior to commencement of construction, an advance for construction equal to the estimated construction cost less three times estimated base revenue to be produced by the customer. ~~The customer may choose to pay a nonrefundable contribution in aid of construction instead of the advance for construction.~~ The utility may use a feasibility model to determine whether an advance for construction ~~or a nonrefundable contribution in aid of construction~~ is required. The utility shall file a summary explaining the inputs into the feasibility model and a description of the model as part of the utility’s tariff. A written contract between the utility and the customer shall be available for board inspection upon request. Whether or not the construction of the distribution main extension would otherwise require a payment from the customer, the utility shall charge the customer for actual permit fees, and the permit fees are not refundable.

(3) Where the customer will not attach within the agreed-upon attachment period after completion of the distribution main extension, the applicant for the distribution main extension shall contract with the utility and make, no more than 30 days prior to the commencement of construction, an advance for construction equal to the estimated construction cost ~~or a nonrefundable contribution in aid of~~

~~construction.~~ The utility may use a feasibility model to determine the amount of the advance for construction ~~or nonrefundable contribution in aid of construction.~~ The utility shall file a summary explaining the inputs into the feasibility model and a description of the model as part of the utility's tariff. A written contract between the utility and the customer shall be available for board inspection upon request. Whether or not the construction of the distribution main extension would otherwise require a payment from the customer, the utility shall charge the customer for actual permit fees, and the permit fees are not refundable.

(4) No change.

(5) Refunds. When the customer ~~has chosen~~ is required to make an advance for construction ~~rather than a nonrefundable contribution in aid of construction,~~ the utility shall refund to the depositor for a period of ten years from the date of the original advance a pro-rata share for each service line attached to the distribution main extension. The pro-rata refund shall be computed in the following manner:

1. to 3. No change.

(6) No change.

ITEM 4. Amend paragraph **20.3(13)“a,”** definition of “Advance for construction,” as follows:

“Advance for construction,” as used in this subrule, means cash payments or equivalent surety made to the utility by an applicant for a plant addition or an electrical line extension, portions of which may be refunded depending on the attachment of any subsequent service line made to the plant addition or electrical line extension. Cash payments or equivalent surety shall include a grossed-up amount for the income tax effect of such revenue. The amount of tax shall be reduced by the present value of the tax benefits to be obtained by depreciating the property in determining tax liability.

ITEM 5. Amend paragraph **20.3(13)“b”** as follows:

b. Plant additions. The utility shall provide all electric plant at its cost and expense without requiring an advance for construction ~~or a nonrefundable contribution in aid of construction~~ from customers or developers except in those unusual circumstances where extensive plant additions are required before the customer can be served. A written contract between the utility and the customer which requires an advance for construction ~~or a nonrefundable contribution in aid of construction~~ by the customer to make plant additions shall be available for board inspection. ~~The utility shall allow the customer or developer, at the customer's or developer's option, to provide a nonrefundable contribution in aid of construction instead of a refundable advance for construction.~~

ITEM 6. Amend paragraph **20.3(13)“c”** as follows:

c. Electrical line extensions. Where the customer will attach to the electrical line extension within the agreed-upon attachment period after completion of the electrical line extension, the following shall apply:

(1) The utility shall finance and make the electrical line extension for a customer without requiring an advance for construction ~~or a nonrefundable contribution in aid of construction~~ if the estimated construction costs to provide an electrical line extension are less than or equal to three times estimated base revenue calculated on the basis of similarly situated customers. The utility may use a feasibility model, rather than three times estimated base revenue calculation, to determine what, if any, advance for construction ~~or nonrefundable contribution in aid of construction~~ is required by the customer. The utility shall file a summary explaining the inputs into the feasibility model and a description of the model as part of the utility's tariff. Whether or not the construction of the electrical line extension would otherwise require a payment from the customer, the utility shall charge the customer for actual permit fees, and the permit fees are not refundable.

(2) If the estimated construction cost to provide an electrical line extension is greater than three times estimated base revenue calculated on the basis of similarly situated customers, the applicant for the electrical line extension shall contract with the utility and make, no more than 30 days prior to commencement of construction, an advance for construction equal to the estimated construction cost less three times estimated base revenue to be produced by the customer. ~~The customer may choose to pay a nonrefundable contribution in aid of construction instead of the advance for construction.~~ The utility may use a feasibility model to determine whether an advance for construction ~~or a nonrefundable~~

~~contribution in aid of construction~~ is required. The utility shall file a summary explaining the inputs into the feasibility model and a description of the model as part of the utility's tariff. A written contract between the utility and the customer shall be available for board inspection upon request. Whether or not the construction of the electrical line extension would otherwise require a payment from the customer, the utility shall charge the customer for actual permit fees, and the permit fees are not refundable.

(3) Where the customer will not attach within the agreed-upon attachment period after completion of the electrical line extension, the applicant for the electrical line extension shall contract with the utility and make, no more than 30 days prior to the commencement of construction, an advance for construction equal to the estimated construction cost ~~or a nonrefundable contribution in aid of construction~~. The utility may use a feasibility model to determine the amount of the advance for construction ~~or nonrefundable contribution in aid of construction~~. The utility shall file a summary explaining the inputs into the feasibility model and a description of the model as part of the utility's tariff. A written contract between the utility and the customer shall be available for board inspection upon request. Whether or not the construction of the electrical line extension would otherwise require a payment from the customer, the utility shall charge the customer for actual permit fees, and the permit fees are not refundable.

(4) No change.

(5) Refunds. When the customer ~~has chosen~~ is required to make an advance for construction ~~rather than a nonrefundable contribution in aid of construction~~, the utility shall refund to the depositor for a period of ten years from the date of the original advance a pro-rata share for each service line attached to the electrical line extension. The pro-rata refund shall be computed in the following manner:

1. to 3. No change.

(6) No change.